

**25-5-1. Estate or interest in real property.**

No estate or interest in real property, other than leases for a term not exceeding one year, nor any trust or power over or concerning real property or in any manner relating thereto, shall be created, granted, assigned, surrendered or declared otherwise than by act or operation of law, or by deed or conveyance in writing subscribed by the party creating, granting, assigning, surrendering or declaring the same, or by his lawful agent thereunto authorized by writing.

No Change Since 1953

**25-5-2. Wills and implied trusts excepted.**

Section 25-5-1 may not be construed to affect the power of a testator in the disposition of the testator's real estate by last will and testament; nor to prevent any trust from arising or being extinguished by implication or operation of law.

Amended by Chapter 297, 2011 General Session

**25-5-3. Leases and contracts for interest in lands.**

Every contract for the leasing for a longer period than one year, or for the sale, of any lands, or any interest in lands, shall be void unless the contract, or some note or memorandum thereof, is in writing subscribed by the party by whom the lease or sale is to be made, or by his lawful agent thereunto authorized in writing.

No Change Since 1953

**25-5-4. Certain agreements void unless written and signed.**

(1) The following agreements are void unless the agreement, or some note or memorandum of the agreement, is in writing, signed by the party to be charged with the agreement:

(a) every agreement that by its terms is not to be performed within one year from the making of the agreement;

(b) every promise to answer for the debt, default, or miscarriage of another;

(c) every agreement, promise, or undertaking made upon consideration of marriage, except mutual promises to marry;

(d) every special promise made by an executor or administrator to answer in damages for the liabilities, or to pay the debts, of the testator or intestate out of his own estate;

(e) every agreement authorizing or employing an agent or broker to purchase or sell real estate for compensation; and

(f) every credit agreement.

(2) (a) As used in Subsection (1)(f) and this Subsection (2):

(i) (A) "Credit agreement" means an agreement by a financial institution to:

(I) lend, delay, or otherwise modify an obligation to repay money, goods, or things in action;

(II) otherwise extend credit; or

(III) make any other financial accommodation.

(B) "Credit agreement" does not include the usual and customary agreements related to deposit accounts or overdrafts or other terms associated with deposit accounts or overdrafts.

(ii) "Creditor" means a financial institution which extends credit or extends a financial accommodation under a credit agreement with a debtor.

(iii) "Debtor" means a person who seeks or obtains credit, or seeks or receives a financial accommodation, under a credit agreement with a financial institution.

(iv) "Financial institution" means:

(A) a state or federally chartered:

(I) bank;

(II) savings and loan association;

(III) savings bank;

(IV) industrial bank; or

(V) credit union; or

(B) any other institution under the jurisdiction of the commissioner of Financial Institutions as provided in Title 7, Financial Institutions Act.

(b) (i) Except as provided in Subsection (2)(e), a debtor or a creditor may not maintain an action on a credit agreement unless the agreement:

(A) is in writing;

(B) expresses consideration;

(C) sets forth the relevant terms and conditions; and

(D) is signed by the party against whom enforcement of the agreement would be sought.

(ii) For purposes of this act, a signed application constitutes a signed agreement, if the creditor does not customarily obtain an additional signed agreement from the debtor when granting the application.

(c) The following actions do not give rise to a claim that a credit agreement is created, unless the agreement satisfies the requirements of Subsection (2)(b):

(i) the rendering of financial advice by a creditor to a debtor;

(ii) the consultation by a creditor with a debtor; or

(iii) the creation for any purpose between a creditor and a debtor of fiduciary or other business relationships.

(d) Each credit agreement shall contain a clearly stated typewritten or printed provision giving notice to the debtor that the written agreement is a final expression of the agreement between the creditor and debtor and the written agreement may not be contradicted by evidence of any alleged oral agreement. The provision does not have to be on the promissory note or other evidence of indebtedness that is tied to the credit agreement.

(e) A credit agreement is binding and enforceable without any signature by the party to be charged if:

(i) the debtor is provided with a written copy of the terms of the agreement;

(ii) the agreement provides that any use of the credit offered shall constitute acceptance of those terms; and

(iii) after the debtor receives the agreement, the debtor, or a person authorized by the debtor, requests funds pursuant to the credit agreement or otherwise uses the credit offered.

Amended by Chapter 92, 2004 General Session

**25-5-5. Representation as to credit of third person.**

To charge a person upon a representation as to the credit of a third person, such representation, or some memorandum thereof, must be in writing subscribed by the party to be charged therewith.

No Change Since 1953

**25-5-6. Promise to answer for obligation of another -- When not required to be in writing.**

A promise to answer for the obligation of another in any of the following cases is deemed an original obligation of the promisor and need not be in writing:

(1) Where the promise is made by one who has received property of another upon an undertaking to apply it pursuant to such promise, or by one who has received a discharge from an obligation in whole or in part in consideration of such promise.

(2) Where the creditor parts with value or enters into an obligation in consideration of the obligation in respect to which the promise is made in terms or under circumstances such as to render the party making the promise the principal debtor and the person in whose behalf it is made his surety.

(3) Where the promise, being for an antecedent obligation of another, is made upon the consideration that the party receiving it cancel the antecedent obligation, accepting the new promise as a substitute therefor; or upon the consideration that the party receiving it releases the property of another from a levy or his person from imprisonment under an execution on a judgment obtained upon the antecedent obligation; or upon a consideration beneficial to the promisor, whether moving from either party to the antecedent obligation or from another person.

(4) Where a factor undertakes for a commission to sell merchandise and to guarantee the sale.

(5) When the holder of an instrument for the payment of money upon which a third person is or may become liable to him transfers it in payment of a precedent debt of his own, or for a new consideration, and in connection with such transfer enters into a promise respecting such instrument.

No Change Since 1953

**25-5-7. Contracts by telegraph deemed written.**

Contracts made by telegraph shall be deemed to be contracts in writing, and all communications sent by telegraph and signed by the person sending the same, or by his authority, shall be deemed to be communications in writing.

No Change Since 1953

**25-5-8. Right to specific performance not affected.**

Nothing in this chapter contained shall be construed to abridge the powers of

courts to compel the specific performance of agreements in case of part performance thereof.

No Change Since 1953

**25-5-9. Agent may sign for principal.**

Every instrument required by the provisions of this chapter to be subscribed by any party may be subscribed by the lawful agent of such party.

No Change Since 1953